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10/029,984	12/31/2001	Go-hyun Kim	1293.1299	6978

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EXAMINER

KLIMOWICZ, WILLIAM JOSEPH

ART UNIT

PAPER NUMBER

2652

DATE MAILED: 03/03/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/029,984

Applicant(s)

KIM ET AL.

Examiner

William J. Klimowicz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-21 is/are rejected.
- 7) ☒ Claim(s) 22-24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Status*

Claims 14-24 are currently pending.

Claims 1-13 have been voluntarily cancelled by the Applicants.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Omori (US 6,438,087 B2).

As per claim 14, Omori (US 6,438,087 B2) discloses an optical disc reproduction apparatus (5) (e.g. see, *inter alia*, FIG. 4) to reproduce data from an optical disc (1), comprising: a main body (outer cabinet housing of disc drive device as seen, e.g. *inter alia*, in FIG. 4); a tray (2) slidably installed in the main body; an optical pickup device (42, 44) to reproduce data on the optical disc (1); and, as broadly set forth in the instantly claimed invention, a damping unit (e.g., 19, 20) to absorb shock when the tray (2) is unloaded from the main body. More concretely, when the tray is in the processing of being ejected from the housing main body (cf, FIGS. 5 and

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4, respectively), the damper members minimize the vibration transmitted to the chassis (16), since the vibration damper (e.g., 20) is located between connection portion (18) and portion (23) and when the chassis moves downward when the tray is unloaded, the vibration from (23) contacting portion base (14b) is minimized due to the intervening damper (20), as is well recognized by those having skill in the art.

Additionally, as broadly set forth in claim 15, the damping unit (19, 20) absorbs shock during reproduction of the data on the optical disc (1). More concretely, the dampers isolate any direct mechanical contact between the chassis, which supports the optical pickup (42, 44). Thus any vibration that is imparted to the housing, is not directly transmitted to the chassis and is absorbed by the intervening damping vibrations isolators (19) and (20).

Claims 16-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Kurosu (US 5,123,005).

As per claim 16, Kurosu (US 5,123,005) discloses an optical disc changer, comprising: a main body (2); a tray (7) slidably installed in the main body (2) to accommodate a plurality of optical discs (20); an optical pickup device (45) to reproduce one of the optical discs (20); a stop member (14) and a hook step (portion of chassis on which the elastic portion of (6) is mounted) provided at the tray (7) and the main body (2), respectively, to prevent the tray (7) from escaping from the main body (2) during unloading; and a damper (elastic member of element (6)) to absorb an impact when the stop member (14) and the hook step (mounting portion of (6)) bump against each other (e.g., see, *inter alia*, FIGS. 12A and 14A; see also COL. 5, line 63 through COL. 6, line 2; COL. 13, lines 19-26)).

As per claim 17, wherein the damper (elastic member of element (6)) is disposed between the stop member (14) and the hook step (portion of chassis on which the elastic portion of (6) is mounted) to absorb an impact when the stop member and the hook step bump against each other.

As per claim 18, wherein the damper (elastic member of element (6)) is installed at the hook step (portion of chassis on which the elastic portion of (6) is mounted) and a shortest portion of the damper (elastic member of element (6)) protrudes toward the stop member (14) rather than the hook step (portion of chassis on which the elastic portion of (6) is mounted). That is, since the elastic member portion of (6) is uniform in radius from an inner diameter, where it is mounted of chassis portion of (6), to an outer diameter of the elastic rubber portion of (6), the “shortest portion” is also the “longest portion” and *vice versa*. Thus, claim 18 is anticipated since it does not in any way distinguish between what is construed as a “shortest portion” and a “longest portion.”

As per claim 19, wherein the damper (elastic member of element (6)) has a cylindrical shape (as is readily seen from FIGS. 12A and 14A) and is fixedly inserted around a protrusion (portion of chassis on which the elastic portion of (6) is mounted) formed on the tray or the main body (2).

As per claim 20, wherein the stop member (14) and the hook step (6) approach each other, without a bump, in a direction opposite to a direction for unloading. That is, during a process of loading, the tray (7) is pulled into the main body (2) without a “bump” during their “approach.” Claim 20 does not preclude a final contact between (14) and (6) since claim 20 is not limited to the entire range of relative motion between the hook step and the stop member, but merely a movement of direction (“approach”) opposite to a direction of unloading.

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As per claim 21, wherein the stop member (14) and/or the hook step (6) retreat when a force is applied in a direction opposite to the direction for unloading and elastically return to an original position when the force is removed. See, e.g., *inter alia*, FIG. 14A; see also COL. 5, line 63 through COL. 6, line 2; COL. 13, lines 19-26.

***Response to Arguments***

Applicants' arguments with respect to claims 14 and 15 have been considered but are moot in view of the new ground(s) of rejection, based on the Applicants' amendment to claims 14 and 15.

Applicants' arguments filed January 16, 2004 (paper No. 4) have been fully considered but they are not persuasive as it pertains to newly presented claims 16-21.

The Applicants allege that Kurosu (US 5,123,005) fails to anticipate the claimed invention since Kurosu (US 5,123,005) discloses wherein a "pull-in and pull-out speed of the disc tray of Kurosu is being controlled in order to reduce shock. Thus, the stopping member 6 of Kurosu is not a damping unit. In other words, the stopping member 6 does not reduce or absorb shock like the claimed damping unit, which absorbs shock when a tray is unloaded." See Applicants' remarks at page 5 of Paper No. 4 (filed January 16, 2004).

The Examiner respectfully disagrees with the Applicants' assertions that Kurosu (US 5,123,005) fails to anticipate the claimed invention as it applies to new claims 16-21. More concretely, although Kurosu (US 5,123,005) may indeed disclose a speed reducing mechanism, Kurosu (US 5,123,005) clearly and without question discloses a damping unit that anticipates the invention, as presently set forth in claims 16-21. That is, as per claim 16, Kurosu (US 5,123,005) discloses a stop member (14) and a hook step (portion of chassis on which the elastic portion of (6) is mounted) provided at the tray (7) and the main body (2), respectively, to prevent the tray (7) from escaping from the main body (2) during unloading; and a damper (elastic member of element (6)) to absorb an impact when the stop member (14) and the hook step (mounting portion of (6)) bump against each other (e.g., see, *inter alia*, FIGS. 12A and 14A; see also COL. 5, line 63 through COL. 6, line 2; COL. 13, lines 19-26)). The damper member portion of (6) is elastic and absorbs impact between the stopper member (14) and the portion of chassis on which the elastic portion of (6) is mounted. That Kurosu (US 5,123,005) further discloses a speed reducing mechanism does nothing to mitigate the evidence that the elastic member of element (6) functions as a damper which absorbs impact, as expressly articulated in Kurosu (US 5,123,005). The Examiner further notes that claim 14 contains the transitional phrase "comprising." Thus, the claims are open ended. Other structure that may reduce the speed of the tray is not in any way excluded from the *claimed invention*.

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Additionally, as has been widely held, during patent examination, the pending claims must be “given the broadest reasonable interpretation consistent with the specification.” The Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the Examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. See *In re Prater*, 162 USPQ 541, 550 - 51 (CCPA 1969).

Furthermore, in patent law, “comprising” is open-ended word and one of enlargement, not of restriction; in contrast, “consisting” is word of restriction and exclusion.

As set forth in *Parmelee Pharmaceutical Company et al. V. Zink*, 163 USPQ 271(CA 8 1961):

The word “comprising” in the patent law is an open-ended word and one of enlargement and not of restriction. “Claim 17 includes the expression ‘loose granules of a natural material of the group comprising wood and grain.’ The word ‘comprising’ does not exclude other materials besides wood and grains.” *Ex parte Dotter*, 12 USPQ 382, 383-4. (d) In contrast, the word “consisting” is one of restriction and exclusion.

Similarly, as set forth in *Intermountain Research and Engineering Company, Inc., et al. V. Hercules Incorporated et al.*, 163 USPQ 390 (DC CCalif. 1969):

Claims which define compositions as “consisting essentially” of named ingredients do not embrace compositions containing solid ingredients which are not expressly set forth in claims and which change character of composition; however, claims, which define compositions by use of “comprising,” are open ended and encompass compositions which have ingredients named in claims and also other ingredients.

Thus, while the Examiner does not disagree that Kurosu (US 5,123,005) does indeed show a mechanism for reducing the speed of the disk tray, the Examiner vigorously maintains that the newly presented claims 14-21 are anticipated by other structure disclosed by Kurosu (US 5,123,005), as articulated, *supra*.



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For the foregoing reasons, the Examiner maintains a *prima facie* case of anticipation in view of the reference evidence, as it pertains to the rejected claims. Based on the totality of the record, including due consideration of Applicants' arguments, the Examiner determines that the preponderance of evidence weighs most heavily in favor of anticipation within the meaning of 35 USC section 102.

***Allowable Subject Matter***

Claims 22-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

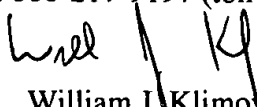
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (703) 305-3452. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William J. Klimowicz  
Primary Examiner  
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WJK